Assembly Bill No. 117

Passed the Assembly August 30, 2006

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Chief Clerk of the Assembly

Passed the Senate August 28, 2006

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Secretary of the Senate

This bill was received by the Governor this _____ day of _____, 2006, at _____ o'clock ___M.

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Private Secretary of the Governor

CHAPTER _____

An act to amend Section 98 of, and to repeal Section 98.04 of, the Revenue and Taxation Code, relating to local government finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 117, Cohn. Tax Equity Allocation formula: County of Santa Clara.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund (ERAF) in that county for allocation to school districts, community college districts, and the county office of education.

Existing property tax law requires the auditor of each county with qualifying cities, as defined, to make certain property tax revenue allocations to those cities in accordance with a specified Tax Equity Allocation (TEA) formula established in a specified statute and to make corresponding reductions in the amount of property tax revenue that is allocated to the county. Existing law reduces the amount required to be allocated under the TEA

formula to qualifying cities in the County of Santa Clara by an amount that is determined by reference to other local taxes, as specified. Existing law also specifies that the amount of revenue allocated under these provisions to a qualifying city in the County of Santa Clara shall not exceed 55% of the amount that otherwise would be allocated to each of these cities under the TEA formula.

This bill would, for the 2006–07 fiscal year and for each fiscal year thereafter, repeal these required reductions and limitations for a qualifying city in the County of Santa Clara and thereby require that these cities be allocated the TEA formula amount determined under the specified statute. This bill would also require the auditor of Santa Clara County, for those same fiscal years, to reduce the amount of property tax revenue allocated to qualified cities in that county by the ERAF reimbursement amount, as defined, and to commensurately increase the amount of property tax revenue allocated to the county ERAF, as specified. This bill would make legislative findings regarding the necessity of a special statute.

By increasing the amount of ad valorem property tax revenue allocated from the county to qualifying cities in the County of Santa Clara, this bill would change the pro rata shares in which ad valorem property tax revenues are allocated among local agencies in a county, within the meaning of paragraph (3) of subdivision (a) of Section 25.5 of Article XIII of the California Constitution, and thus would require for passage the approval of $^2/_3$ of the membership of each house of the Legislature.

By imposing new duties in the allocation of ad valorem property tax revenues in the County of Santa Clara, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 98 of the Revenue and Taxation Code is amended to read:

98. (a) In each county, other than the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 96.1 or its predecessor section, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 96.5 or its predecessor section, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 96.1, or their predecessor sections, in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 96.5 or its predecessor section, the auditor shall, for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 96.5 or its

predecessor section to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 96.1 or its predecessor section, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city, except a qualifying city as defined in Section 98.1, that incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 96.1 or its predecessor section in the 1988–89 fiscal year that is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue that was exchanged between the county and the qualifying city as a result of negotiation pursuant to Section 99.03.

(2) (A) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed tax, except any tax that was imposed after January 1, 1988. In the case of a tax that existed before January 1, 1988, this clause shall apply only with respect to an amount attributable to a reduction of the rate or base to a level lower than the rate or base applicable on January 1, 1988. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this clause as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(B) No reduction may be made pursuant to subparagraph (A) in the case in which a local tax is reduced or eliminated as a result of either a court decision or the approval or rejection of a ballot measure by the voters.

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87

fiscal year by all special districts that are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

Notwithstanding this paragraph:

(A) Commencing with the 1994–95 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city becoming the successor agency to a special district, that is dissolved, merged with that city, or becomes a subsidiary district of that city, on or after July 1, 1994.

(B) Commencing with the 1997–98 fiscal year, the auditor shall not reduce the amount distributed to a qualifying city under this section by reason of that city withdrawing from a county free library system pursuant to Section 19116 of the Education Code.

(4) Any amount of property tax revenues that has been exchanged pursuant to Section 56842 of the Government Code between the City of Rancho Mirage and a community services district, the formation of which was initiated on or after March 6, 1997, pursuant to Chapter 4 (commencing with Section 56800) of Part 3 of Division 3 of Title 5 of the Government Code.

(g) Notwithstanding any other provision of this section, in no event may the auditor reduce the amount of ad valorem property tax revenue otherwise allocated to a qualifying city pursuant to this section on the basis of any additional ad valorem property tax revenues received by that city pursuant to a services for revenue agreement. For purposes of this subdivision, a "services for revenue agreement" means any agreement between a qualifying city and the county in which it is located, entered into by joint resolution of that city and that county, under which additional service responsibilities are exchanged in consideration for additional property tax revenues.

(h) In any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall increase the actual amount distributed to the qualifying city by the amount of property tax revenue allocated to the qualifying city pursuant to Section 19116 of the Education Code.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e), (f), and (g) would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the

auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount that exceeds the city's appropriations limit.

(j) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section that is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city that has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103(b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax-exempt financing.

(m) (1) The amendments made to this section, and the repeal of Section 98.04, by the act that added this subdivision shall apply for the 2006–07 fiscal year and each fiscal year thereafter.

(2) For the 2006−07 fiscal year and for each fiscal year thereafter, all of the following apply:

(A) The auditor of the County of Santa Clara shall do both of the following:

(i) Reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to qualifying cities in that county by the ERAF reimbursement amount. This reduction for each qualifying city in the county for each fiscal year shall be the percentage share, of the total reduction required by this clause for all qualifying cities in the county for the 2006−07 fiscal year, that is equal to the proportion that the total amount of additional ad valorem property tax revenue that is required to be allocated to the qualifying city as a result of the act that added this subdivision bears to the total amount of additional ad valorem property tax revenue that is required to be allocated to all qualifying cities in the county as a result of the act that added this subdivision.

(ii) Increase the total amount of ad valorem property tax revenue otherwise required to be allocated to the county

Educational Revenue Augmentation Fund by the ERAF reimbursement amount.

(B) For purposes of this subdivision, "ERAF reimbursement amount" means an amount equal to the difference between the following two amounts:

(i) The portion of the annual tax increment that would have been allocated from the county to the county Educational Revenue Augmentation Fund for the applicable fiscal year if the act that added this subdivision had not been enacted.

(ii) The portion of the annual tax increment that is allocated from the county to the county Educational Revenue Augmentation Fund for the applicable fiscal year.

SEC. 2. Section 98.04 of the Revenue and Taxation Code is repealed.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique fiscal pressures being experienced by qualifying cities, as defined in Section 98 of the Revenue and Taxation Code, in the County of Santa Clara.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide qualifying cities in the County of Santa Clara with the revenues needed to provide vital services that protect the public peace, health, and safety as soon as possible, it is necessary that this act take effect immediately.

Approved _____, 2006

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Governor